

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

DAVID DAVINCI, et al,

No. CV06-68

Plaintiffs,

ORDER ADOPTING MAGISTRATE  
JUDGE'S FINDINGS AND  
RECOMMENDATION

v.

STATE OF MISSOURI, et al,

Defendants.

**MOSMAN, J.,**

On April 21, 2006, Magistrate Judge Ashmanskas issued Findings and Recommendation ("F&R") (docket #19) in the above-captioned case recommending that defendant's motion to dismiss (#17) be granted. No objections were filed by either party.

In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been

filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

After reviewing the F&R and relevant materials, the F&R is ADOPTED without modification.

IT IS SO ORDERED.

DATED this 30th day of May, 2006.

/s/ Michael W. Mosman  
MICHAEL W. MOSMAN  
United States District Court